

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

CENTRO PRESENTE, *et al.*,

Plaintiffs,

V.

DONALD J. TRUMP, *et al.*,

Defendants.

No. 1:18-cv-10340-DJC

ORAL ARGUMENT REQUESTED

**PLAINTIFFS' MOTION TO COMPEL RESPONSES
TO WHITE HOUSE DISCOVERY REQUESTS**

Pursuant to Fed. R. Civ. P. 37(a)(3)(B), Plaintiffs Centro Presente, *et al.* (the “Plaintiffs”) respectfully move this Court for an order compelling Defendants United States Department of Homeland Security (“DHS”), Donald J. Trump, President of the United States in his official capacity (“President Trump”), DHS Secretary Kirstjen Nielsen (“Secretary Nielsen”), and DHS Deputy Secretary Elaine Costanzo Duke (“Deputy Secretary Duke,” and together with DHS, President Trump, and Nielsen, the “Defendants”), to respond to particular document requests and a deposition notice issued pursuant to Fed. R. Civ. P. 30(b)(6).

As explained more fully in Plaintiffs' Memorandum of Law in Support, filed contemporaneously herewith, Defendants have categorically refused to search for or produce documents and to designate a Rule 30(b)(6) deponent on the basis of privilege and undue burden in response to Plaintiffs' discovery requests directed towards President Trump and his agents within the White House. Instead, Defendants have invoked blanket assertions of presidential communications privilege and deliberative process privilege, as well as claims of undue burden, without any factual support. The law does not support Defendants' position.

The parties have conferred at length regarding these issues in an effort to resolve them without involvement by the Court. Without this Court's intervention, Defendants will continue to disregard their discovery obligations, further harming Plaintiffs' ability to prepare their case.

WHEREFORE, Plaintiffs request that the Court compel Defendants to respond within fourteen days of the resolution of this Motion by (i) producing the requested non-privileged discovery and designating a Rule 30(b)(6) deponent, and (ii) providing a specific log of allegedly privileged documents that are withheld and objections to Plaintiffs' Rule 30(b)(6) deposition topics, if any. If and when Defendants log their privilege claims and specify their objections, Plaintiffs will seek guidance from the Court with respect to expedited review and evaluation of those privilege claims and objections, in light of the current deadlines in the Scheduling Order.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d), Plaintiffs respectfully request that this Court schedule a hearing on this motion.

Dated: March 8, 2019

Respectfully submitted,

/s/ Allison S. Ercolano

Oren Sellstrom (BBO# 569045)

Oren Nimni (BBO #691821)

Iván Espinoza-Madrigal (Admitted *Pro Hac Vice*)

LAWYERS' FOR CIVIL RIGHTS

61 Batterymarch Street, 5th Floor

Boston, Massachusetts 02110

(617) 988-0624

Eric J. Marandett (BBO# 561730)

Carlos J. Perez-Albuerne (BBO# 640446)

Kevin P. O'Keefe (BBO# 697101)

Xing-Yin Ni (BBO# 693876)

Leah R. Milbauer (BBO# 703717)

Allison S. Ercolano (BBO# 698601)

Natalia Smychkovich (BBO# 699289)

Margaret J. Burnside (BBO# 698763)

CHOATE, HALL & STEWART LLP

Two International Place

Boston, Massachusetts 02110

(617) 248-5000

CERTIFICATE OF COMPLIANCE WITH LOCAL RULES 7.1 AND 37.1

I, Allison S. Ercolano, counsel for plaintiffs Centro Presente, *et al.*, certify that the parties convened several conferences in good faith to discuss the foregoing discovery disputes, as set forth in detail at paragraphs four through nine of the accompanying Declaration of Kevin P. O’Keefe in Support of Plaintiffs’ Motion to Compel Responses to White House Discovery Requests. Defendants have not assented to this motion.

/s/ Allison S. Ercolano

Allison S. Ercolano (BBO# 698601)

Dated: March 8, 2019

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

/s/ Allison S. Ercolano

Allison S. Ercolano (BBO# 698601)

Dated: March 8, 2019